

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CECIL KOGER,

Plaintiff,

v.

DIRECTOR GARY MOHR, et al.,

Defendants.

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Case No. 4:17-CV-02409

Judge Benita Y. Pearson

**DEFENDANTS' MOTION TO SUBSTITUTE
WARDEN BLACK FOR WARDEN BRACY AS A DEFENDANT IN THIS CASE**

On July 16, 2021, Defendants, by and through counsel, responded to this Court's Non-document Order filed on Wednesday, July 14, 2021 and gave notice that along with the undersigned, Ohio Department of Rehabilitation and Correction employees Michelle Tatman, Dietary Operations Manager; Dr. Mike Davis, Religious Services Administrator; either Warden Kenneth Black or Regional Director Ed Banks; and Byron Turner, Esq., Staff Counsel for ODRC, would attend the August 10, 2021 Final Pretrial Conference scheduled to begin at 9:00 am.

Of note, Charmaine Bracy, currently the Warden of the Trumbull Correctional Institution, is no longer the Warden at the Richland Correctional Institution. Instead, Warden Black is now the managing officer of the Richland Correctional Institution, the prison in which Plaintiff was and is presently incarcerated. As such, Warden Bracy no longer has the ability to implement any injunctive relief on behalf of the Plaintiff.

For this reason, Defendants request that Warden Black be substituted for Warden Bracy as a Defendant in this matter since it is he who is now responsible for the administration of the institution and will be addressing the operational and security concerns implicated by Plaintiff's proposed dietary accommodations, the only claims that remain for the Court's consideration. *See*

Sharpe v. AG of the United States, No. 07-CV-116, 2008 U.S. Dist. LEXIS 42197, at *3, 10 (E.D. Ky. 2008) (ordering a substitution of parties, thereby terminating the previous Warden and naming the current Warden as the defendant in the case); *Clouse v. Westbrooks*, No. 2:12-cv-0114, 2013 U.S. Dist. LEXIS 121767, at fn 1 (M.D. Tenn. 2013) (although a new Warden was appointed to administer the prison during the pendency of the case, not ordering a substitution of the parties because the case was being dismissed); *Urso v. Eppinger*, No. 4:13CV0723, 2015 U.S. Dist. LEXIS 119995 (N.D. Ohio 2015).

Respectfully submitted,

DAVE YOST
Ohio Attorney General

s/ Mindy Worly
MINDY WORLY (0037395)
Principal Assistant Attorney General
Criminal Justice Section, Corrections Unit
30 East Broad Street, 23rd Floor
Columbus, Ohio 43215
Phone: (614) 728-0161; Fax: (866) 474-4985
Mindy.Worly@OhioAttorneyGeneral.gov

Trial Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was electronically filed on August 11, 2021. Notice of this filing will be sent to counsel for all parties via the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Mindy Worly
Mindy Worly (0037395)
Principal Assistant Attorney General